MONTANA LEGISLATIVE HISTORY

Chapter 477 1995

Bill H 602 S _____ Original bill & history ✓C

H. Committee on BUSINESS & LABOR			S. Committee on BUSINESS & INDUSTRY		
Hearing Date(s) & EXEC. ACTION	3/21	C	Hearing Date(s) & EXEC. ACTION	3/27	C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Conference Committee

HEARING: 4/5

3/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/23	MOTION FAILED TO DO NOT PASS ON 2ND READING	31	68
		64	36
3/23	2ND READING PASSED AS AMENDED		
3/23	FISCAL NOTE PRINTED		
3/24	MISSED TRANSMITTAL DEADLINE FOR 67TH DAY DIED IN PROCESS		

HB 600 INTRODUCED BY SLITER

PROVIDE FLEXIBILITY FOR FUNDING STATE'S RECREATIONAL BOATING SAFETY PROGRAM BY ALLOWING DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CONTRACT WITH COUNTIES TO IMPLEMENT PARTS OF THE PROGRAM

BY REQUEST OF THE HOUSE FISH AND GAME COMMITTEE

3/17	INTRODUCED		
3/17	FIRST READING		
3/17	REFERRED TO FISH & GAME		
3/18	FISCAL NOTE REQUESTED		
3/22	FISCAL NOTE PRINTED		
3/23	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/24	2ND READING PASSED	83	14
3/25	3RD READING PASSED	86	12
	TRANSMITTED TO SENATE		
3/27	FIRST READING		
3/27	REFERRED TO FISH & GAME		
3/27	HEARING		
3/28	COMMITTEE REPORT—BILL CONCURRED		
4/07	2ND READING CONCURRED	31	10
4/08	3RD READING CONCURRED	34	14
	RETURNED TO HOUSE		
4/10	SIGNED BY SPEAKER		
4/11	SIGNED BY PRESIDENT		
4/11	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 476		
	EFFECTIVE DATE: 06/30/95		

HB 601 INTRODUCED BY SOMERVILLE, ET AL.

REPEAL LICENSE REQUIREMENTS FOR PUBLIC CONTRACTORS

BY REQUEST OF THE HOUSE TAXATION COMMITTEE

3/17	INTRODUCED		
3/17	FIRST READING		
3/17	REFERRED TO TAXATION		
3/18	FISCAL NOTE REQUESTED		
3/21	FISCAL NOTE RECEIVED		
3/21	FISCAL NOTE PRINTED		
3/22	HEARING		
3/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/24	2ND READING PASSED	91	9
3/25	3RD READING PASSED	97	2
	TRANSMITTED TO SENATE		
3/27	FIRST READING		
3/27	REFERRED TO TAXATION		
4/03	HEARING		
4/04	TABLED IN COMMITTEE		
4/07	TAKEN FROM COMMITTEE AND PLACED ON 2ND READING	32	10

4/08	2ND READING CONCURRED	42	6
4/10	3RD READING CONCURRED	44	5
	RETURNED TO HOUSE		
4/11	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 558		
	EFFECTIVE DATE: 04/26/95		

HB 602 INTRODUCED BY KITZENBERG, ET AL.

AUTHORIZE LOANS TO LOCAL GOVERNMENT FOR BUSINESSES ESTIMATED TO EMPLOY AT LEAST 50 PEOPLE

3/17	INTRODUCED		
3/17	FIRST READING		
3/17	REFERRED TO BUSINESS & LABOR		
3/18	FISCAL NOTE REQUESTED		
3/21	HEARING		
3/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/23	FISCAL NOTE RECEIVED		
3/23	2ND READING PASSED AS AMENDED	67	33
3/23	3RD READING PASSED	63	36
	TRANSMITTED TO SENATE		
3/24	FIRST READING		
3/24	REFERRED TO BUSINESS & INDUSTRY		
3/24	REVISED FISCAL NOTE REQUESTED		
3/25	REVISED FISCAL NOTE RECEIVED		
3/27	HEARING		
3/28	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/29	2ND READING CONCURRED AS AMENDED	49	1
3/30	3RD READING CONCURRED	43	7
	RETURNED TO HOUSE WITH AMENDMENTS		
4/03	REVISED FISCAL NOTE PRINTED		
4/04	2ND READING AMENDMENTS NOT CONCURRED	91	6
4/04	CONFERENCE COMMITTEE APPOINTED		
4/06	CONFERENCE COMMITTEE REPORT NO. 1		
4/08	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	80	19
4/10	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	79	21
	SENATE		
4/05	CONFERENCE COMMITTEE APPOINTED		
4/06	CONFERENCE COMMITTEE REPORT NO. 1		
4/07	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/08	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/11	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/12	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 477		
	EFFECTIVE DATE: 04/14/95		

House BILL NO. 602

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING LOANS TO LOCAL GOVERNMENT FOR BUSINESSES ESTIMATED TO EMPLOY AT LEAST 50 PEOPLE; PROVIDING THAT LOANS MAY BE USED TO PROVIDE INFRASTRUCTURE FOR A BUSINESS; PROVIDING FOR REPAYMENT OF THE LOANS THROUGH INFRASTRUCTURE FEES; PROVIDING A TAX CREDIT FOR INFRASTRUCTURE FEES PAID; AMENDING SECTIONS 17-6-305, 17-6-309, 17-6-311, AND 17-6-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-305, MCA, is amended to read:

"17-6-305. Investment of up to twenty-five percent of coal tax trust fund in Montana economy -- report by board. (1) Subject to the provisions of 17-6-201(1), the board shall endeavor to invest up to 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana economy, with special emphasis on investments in new or expanding locally owned enterprises. Investments made pursuant to this section do not include investments made pursuant to 17-6-309(2).

(2) In determining the probable income to be derived from investment of this revenue, the long-term benefit to the Montana economy must be considered.

(3) The legislature may provide additional procedures to implement this section.

(4) The board shall include a report on the investments made under this section as a part of the information required by 17-7-111."

Section 2. Section 17-6-309, MCA, is amended to read:

"17-6-309. Investment preferences. (1) ~~In~~ Subject to the provisions of subsection (2), in deciding which of several investments of equal or comparable security and return are to be made when sufficient funds are not available to fund all possible investments, the board shall give preference to the business investments that:

~~(1)~~(a) assist employee-owned enterprises in providing new jobs or in preserving existing jobs for

Montana residents or in otherwise contributing to the long-term benefit of the Montana economy;

~~(2)~~(b) are for locally owned enterprises that are either expanding or establishing new operations;

~~(3)~~(c) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;

~~(4)~~(d) maintain and improve a clean and healthful environment, with emphasis on energy efficiency;

~~(5)~~(e) encourage or benefit the processing, refining, marketing, and innovative use and promotion of Montana's agricultural products; or

~~(6)~~(f) benefit small- and medium-sized businesses as defined in rules adopted by the board.

(2) The board may make a loan to enhance economic development and create jobs if the loan will result in the creation of a business estimated to employ at least 50 people in Montana."

Section 3. Section 17-6-311, MCA, is amended to read:

"**17-6-311. Limitation on size of investments.** (1) Except as provided in subsections (2) ~~and (3)~~ through (4), ~~no~~ an investment may not be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of which exceeds 1% of the permanent coal tax trust fund.

(2) Subsection (1) does not limit the board's authority to make loans to the capital reserve account as provided in 17-6-308(2).

(3) Subsection (1) does not apply to the purchase of debentures issued by a capital company; however, the total amount of such debentures purchased by the board may not exceed 1% of the Montana permanent coal tax trust fund at the time of purchase.

(4) A loan made pursuant to 17-6-309(2) may not exceed $20 million or be less than $1 million. Loans must be made in $250,000 increments. A loan may not exceed $10,000 per job that is estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the board shall consider:

(a) the estimated number of jobs to be created by the project and the impact of the jobs on the state and the community where the project will be located;

(b) the long-term effect of corporate and personal income taxes estimated to be paid by the business and its employees;

(c) the current and projected ability of the community to provide necessary infrastructure for economic and community development purposes; and

(d) other matters that the board considers necessary."

Section 4. Section 17-6-312, MCA, is amended to read:

"**17-6-312. State participation in loans.** (1) ~~State~~ Subject to 17-6-311(4), state participation in any loan to a business enterprise, except for a loan guaranteed by a federal agency, must be limited to 80% of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the loan participation amount.

(2) The purchase of debentures issued by a capital company is not a loan participation and is not subject to subsection (1)."

NEW SECTION. **Section 5. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to 17-6-309(2) may be used to build infrastructure, such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of a business in Montana. The loan may be made to a local government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure.

(2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

(3) A business that is created as the result of a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed the amount of the loan.

NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 17, chapter 6, part 3, and the provisions of Title 17, chapter 6, part 3, apply to [section 5].

NEW SECTION. **Section 7. Coordination instructions.** (1) If [this act] is passed and approved, then the amendment to 17-6-308 contained in section 1, Chapter 2, Laws of 1995, and the amendment to 17-6-309 contained in section 2, Chapter 2, Laws of 1995, are void.

(2) The code commissioner shall codify [section 5 of this act] as an integral part of section 5, Chapter 2, Laws of 1995.

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0602, 3rd reading

DESCRIPTION OF PROPOSED LEGISLATION:
An act authorizing loans to local government for businesses estimated to employ at least 50 people; providing that loans must be used to provide infrastructure for a business; providing for repayment of the loans through infrastructure fees; providing a tax credit for infrastructure fees paid; and providing an immediate effective date.

ASSUMPTIONS:
1. The Board of Investments (Board), through qualifying financial institutions, currently makes "economic development" loans from the Permanent Coal Tax Trust to qualifying businesses located in Montana.
2. Current law permits the Board to use up to 25.0 percent of the Permanent Coal Tax Trust (Trust) for these loans, and no individual loan may exceed 1.0 percent of the Permanent Coal Tax Trust. (The Trust has a book value of approximately $540.0 million.)
3. HB602 would permit the Board to make loans from the Trust ranging from $500,000 to $20 million to local governments to fund infrastructure improvements necessary to accommodate businesses that would employ a minimum of 50 new employees. The infrastructure would serve as loan collateral.
4. The businesses for whom the infrastructure is developed would pay a fee to amortize the loan and receive a tax credit in the amount of the fees paid to amortize the loan.
5. The Board, when making the loans authorized in HB602, would be required to exercise the "prudent expert principle" as it does when making all "economic development" loans from the Trust.
6. Loans made under HB602 would not be considered part of the 25.0 percent of the Trust authorized for the "economic development" loans the Board currently makes.
7. Loans made from the Trust under HB602 would differ from the loans currently made by the Board in the following ways: 1) individual loans could exceed 1.0 percent of the Trust; 2) loans would be made to local governments, rather than private businesses; and 3) loans would be made directly to borrowers, rather than in participation with financial institutions that would service the loans. (The Board is currently prohibited from making direct loans to borrowers.)

FISCAL IMPACT:
Expenditures:

Department of Revenue
The addition of a new tax credit would require adding a line to the corporation tax form. This increases administrative expenses an estimated $1,500 in FY96.

(continued page 2)

Dave Lewis 3-24-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Sam Kitzenberg
SAM KITZENBERG, PRIMARY SPONSOR DATE
Fiscal Note for HB0602, 3rd reading

FISCAL IMPACT: (continued)
Expenditures:

Board of Investments
Whether enactment of HB602 would increase Board operating expenditures, depends upon the number of loan applications reviewed, the number of loans made, and the accounting workload required to service the loans. It is impossible to estimate in advance, the additional workload required of the Board to implement this legislation.

Revenues:
This bill allows the Board of Investments to make loans to local governments for infrastructure development in situations where the business that uses the infrastructure is estimated to create at least 50 new jobs. The local government will then charge the business user fees for use of the infrastructure. The business will then be allowed to claim any user fee paid as a tax credit against corporation licenses taxes.

To the extent that this provision is used in the future, there would be a reduction in corporation license taxes for user fees paid by the businesses paying these fees. It is not possible to accurately project the extent or use of these fees by future businesses.

Interest income on the Trust would not be impacted, based on the assumption that the Board would lend under the provisions of HB602 at an interest rate comparable to other loans it makes from the Trust.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
To the extent that local governments receive loans from the Board and construct infrastructure projects, local government expenditures would increase.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on March 21, 1995, at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 602
Executive Action:	HB 599, HB 526, HB 580, HB 581, SB 354, SB 313, HB 602

EXECUTIVE ACTION ON HB 599

Motion: **REP. BOB PAVLOVICH MOVED HB 599 DO PASS. REP. MILLS MOVED THE GOVERNOR'S AMENDMENTS.**

Vote: A roll call vote was taken to adopt the #2 Cocchiarella amendment which failed 2-14 with REPS. SIMON, MILLS, PAVLOVICH, BARNETT, DEVANEY, ELLINGSON, ELLIS, HERRON, KEENAN, MARSHALL MCKEE, OHS, SLITER and TUSS voting no. REPS. FORBES and LARSON refrained from voting because of being absent with no proxy.

CHAIRMAN SIMON relinquished the chair to **VICE CHAIRMAN PAVLOVICH.**

Motion: REP. SIMON MOVED THE SIMON AMENDMENT.

Discussion:

REP. BARNETT stated he opposes the amendment.

Vote: Motion carried to adopt the Simon amendment 11-6 with REPS. ELLIS, OHS, MCKEE, HERRON, BARNETT and MARSHALL voting no. REP. FORBES refrained from voting because of being absent with no proxy.

Vote: A roll call vote was taken which passed 13-5 with REPS. SIMON, COCCHIARELLA, EWER, KEENAN and OHS voting no.

TAPE 2, SIDE A

VICE CHAIRMAN PAVLOVICH relinquished the chair back to **CHAIRMAN SIMON.**

HEARING ON HB 602

Opening Statement by Sponsor: REP. SAM KITZENBERG, HD 96, Valley County, said this bill is an act authorizing loans to local government for businesses estimated to employ at least 50 people; providing that loans may be used to provide infrastructure for a business; providing for repayment of the loans through infrastructure fees; and providing a tax credit for infrastructure fees paid. He then provided further written testimony. **EXHIBIT 1**

Proponents' Testimony:

Rick Jones, Department of Commerce, said his role with the department is to recruit new and expanding businesses to Montana. He said there are opportunities which may require significant investment in local infrastructure. Local government sometimes cannot afford through the existing programs or rate structures to make substantial investments in new infrastructure to attract business opportunities without significant hikes in their local rate structures. This is often resisted by the existing local user. Local governments cannot often wait for other programs which would be available to finance infrastructure such as Treasure State Endowment Fund, Community Development Block Grant, EPA construction grants, etc. This bill makes the provisions more accessible to smaller business opportunities and smaller communities. It may be more appropriate to encourage smaller

companies to locate in the state. There are not 2000 employee plants eagerly coming to Montana very often anyway. He then provided testimony from **Dixie Swanson, Legislative Committee, Montana Economic Developers Association,** as part of the testimony. **EXHIBIT 2**

David Owen, Montana Chamber of Commerce, said they supported the concept of taking the idea of the Micron bill and making it more universally acceptable by pushing the level down. There should be caution, however, in the provision as it identifies 50 people. Expanding business is extremely important.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. MARSHALL said he was in favor of these programs to help the state. He is concerned about how programs would be monitored and where there is the protection. **Mr. Jones** said the Board of Investments' management of the loan program is the best tool. The Board will take a very strong role.

REP. DEVANEY asked what the position of the loan as far as an obligation to the government. **REP. KITZENBERG** said it was not addressed in the bill.

REP. EWER said this bill would empower the Board of investments to make loans to local governments. Local governments would make an investment in infrastructure so that a company with job creation would locate here. He asked about the loan arrangement between the company and the community so the community can pay back the Board of Investments. **Mr. Jones** said the loan arrangement would be under any currently available legal method whether it would be a general obligation which would be subject to a vote of the electorate or through a special revenue bond dedicating the user fees. **REP. EWER** said there is no method in general obligation bonds whereupon a particular entity could be singled out to pay more than its share. **Mr. Jones** said he was not an expert on utility rate structures. The loan is not to be repaid at all through property taxes. It is to be paid through utility rate structures created by the local government providing the service to the user. In most of the cases, the infrastructure improvements being discussed are dedicated to the repayment structure. **REP. EWER** asked if the committee is aware of the laws regarding user charges having to be set so there is sufficient revenues brought in. They want a company to pay for all of this. The residents are going to pay also. **Mr. Jones** said the way it is being considered is that the existing system presumably is being paid by the existing rate base. Costs associated with amortizing and operating that system are being covered by the current rate base. The additional debt created by the infrastructure and improvement will be financed by additional

fees based on the rate structure that will be paid by that user. It will not be tied for the construction to operation of existing system but will be an increment over and above those annual operating and amortization laws.

CHAIRMAN SIMON said he was involved in a lot of the discussion on the Micron bill. If a road is built to a particular location, money will not be reimbursed from user fees. An additional system development fee would be negotiated and be a part of the loan agreement the city would have documentation in place with the entity creating the jobs that would assure the Board of Investments they would get the loan repaid. **Mr. Jones** said the Board of Investments needed to be satisfied that there is adequate payment provision.

CHAIRMAN SIMON said that is precisely the concern **REP. EWER** has. The Board has a high standard they must reach. It must be clear on the record that the Board of Investments' standards which will be used will be looked to and any agreement which is put together would become the working document. The Board would then authorize a loan to the local government, and it would be a tight document. It would give strong assurances to the Board that the loan which is being made to the local government will be repaid. This is not a general obligation of the taxpayers. It is based upon collateral, which is the infrastructure. The collateral is useless. He asked whether it would be negotiated between the entity coming in and the local government. **Mr. Jones** said yes but the committee was getting ahead of itself.

CHAIRMAN SIMON said this was not so, it needed to be talked about because it is going to fall to the responsibility of the Board of Investments to make these loans. They need to understand what the legislature is thinking about when this legislation is passed. This is not a premature discussion but one which is right on target as far as what is contemplated here. The Board of Investments will follow strict guidelines in making sure the public is protected and the loans will be repaid.

REP. ELLIS asked how many jobs were involved in the malting facility. **Mr. Jones** said it was in 1989 and there were 200 jobs involved. The Canola plant in Butte employed about 40-400 people. The alcohol plant in Great Falls employed 100.

REP. ELLIS said he detected a note of concern about this bill not threatening existing businesses. **Mr. Jones** said he did not have specific language to protect that but he said his concern was that it could be a very good program.

REP. ELLINGSON said one aspect of the bill which concerns him is the possibility of retail establishments coming to the Board and asking for assistance. If it was decided this would need to be for the creation of jobs in the primary sector, he wondered whether that would have a sufficient economic definition. **Mr. Owen** said there was a good idea of what primary means and the

answer is yes. He did not know the answer to the contractual questions.

REP. EWER asked if it were the sense of the sponsor that all of the necessary ingredients as far as legislation would be in place so that there would be sufficient law on the books that if there were a viable company, a loan could be done between the Board of Investments and local government and some arrangement could be made between local government and the company. **REP. KITZENBERG** said yes. These are legitimate concerns. In speaking with **Mr. Pancich,** he said he understood that this is an economic development bill and that it is only as good as the company that can pay the fees. The Board is going to want to look at that company's ability to create the cash flow to be able to service the debt to the county and they would be looking very hard at that. There will be a lien on the infrastructure.

CHAIRMAN SIMON asked if **REP. KITZENBERG** could supply a copy of **Mr. Pancich's** testimony to the committee. **REP. KITZENBERG** said yes.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 602

Motion: **REP. ELLIS MOVED HB 602 DO PASS. REP. SLITER MOVED THE KITZENBERG AMENDMENTS.**

Discussion:

REP. PAVLOVICH stated he did not understand the second amendment.

Steven Maly explained the amendments.

REP. ELLINGSON requested that the **Kitzenberg** amendments be segregated into numbers 1, 2-4.

Vote: **Motion carried on the Kitzenberg #2, #3, #4 and #1 on the second page 18-0.**

Motion: **REP. ELLINGSON MOVED A SUBSTITUTE ELLINGSON AMENDMENT.**

Discussion:

REP. EWER said not to define "primary" in the amendment. He then explained why the Board of Investments uses "primary" for their interpretation under its existing policies and practices.

CHAIRMAN SIMON said he wanted to offer an amendment that would say "full time and permanent" which **REP. ELLINGSON** could include in his amendment.

Motion/Vote: REP. ELLINGSON MOVED TO INCORPORATED THE LANGUAGE OFFERED BY CHAIRMAN SIMON IN HIS AMENDMENT. Motion carried to adopt the Ellingson amendment 18-0.

Motion/Vote: REP. ELLIS MOVED HB 602 DO PASS AS AMEND.

Discussion:

REP. EWER stated that the Board of Investments will take respect to primacy to Montana. It is not an easy concept to define. He also said that all of the pieces were not in place in this bill which will effectuate this legislation but the Board of Investments will make every good faith effort. For the record, politicians don't pressure the Board of Investments. That is not a fair statement. This bill will raise people's expectations.

REP. MILLS said he was concerned about the ability of the cities or local entities to borrow this money without a vote of the people or without some enabling statements to that effect.

REP. EWER said there were a lot of different avenues which governments have to borrow money. They can do it with revenue bonds, general obligation bonds, industrial revenue bonds. Some will and some won't need a vote of the people.

Vote: Motion carried on HB 602 18-0.

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL DATE 3-21-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

HOUSE STANDING COMMITTEE REPORT

March 21, 1995

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 602** (first reading copy -- white) **do pass as amended.**

Signed: _____
Bruce Simon, Chair

And, that such amendments read:

1. Page 2, line 9.
Following: "jobs"
Insert: "in the primary sector of the economy"

2. Page 2, line 10.
Following: "Montana"
Insert: "on a permanent, full-time basis or result in the expansion of a business estimated to employ at least an additional 50 people in Montana on a permanent, full-time basis"

3. Page 2, line 22.
Strike: "$1 million"
Insert: "$500,000"

4. Page 3, line 22.
Following: "created"
Insert: "or expanded"

5. Page 3, line 23.
Following: "chapter"
Insert: "30 or"

Committee Vote:
Yes 17, No 1.

651556SC.Hbk

6. Page 3, line 25
Following: "."
Insert: "The credit may be carried forward or carried back for 7 tax years."

-END-

EXHIBIT 1
DATE 3-21-95
HB 602

HB 602

MONTANA ECONOMIC INCENTIVE ACT

BY REPRESENTATIVE SAM KITZENBERG, HD #96

This bill authorizes the Board of Investments to make loans to local governments to create infrastructure for businesses that will create jobs in Montana.

The loan is made to the local government for infrastructure purposes to employ at least 50 people. The loan has a maximum amount of $20 million and a minimum amount of $500,000, and that is because we are making the loans in $10,000 per job. You have to have a minimum of 50 jobs to qualify 50 times the $10,000 per job is $500,000. Half a million dollars is the minimum loan amount. The maximum is $20 million 2000 [redacted] jobs. The loans are made to local governments to do infrastructure like streets, roads, water, sewer, those kinds of things that a business may need. The idea is that the local government will repay the loan through some sort of infrastructure tax credit that the business receives. So, the local government will charge the business the cost of the infrastructure; for example, if they put in a water system for the business to allow the business to locate the water use fees that the business pays, will go to the local government to repay the state. The business will get a tax credit against its income taxes it

pays to offset those fees to the local government. So, the states' benefit is through the income taxes collected from the workers We are creating job opportunities in Montana. We are creating economic development through the local construction projects to create the infrastructure that can benefit the whole community. We are using coal severance tax permanent trust fund to benefit local government and future generations through creating infrastructure and jobs in Montana. Essentially, everyone comes out as a wash because the local government gets the loan they repay through the service fees for the infrastructure provided. The business that we locate in Montana creates at least 50 jobs; a nice size business in Montana, gets a benefit because it gets to offset those fees on their corporate income taxes initially, and the state benefits because we get the income taxes from the workers who are located there.

LINE-by-Line

(What this bill does)

176305. Section One. This is the existing in state investment program and that directs the Board of Investments to invest up to 25% of the coal severance tax trust fund in Montana. We specifically provide that investments made prior to this section are not included in the loans made for infrastructure so that there is still directed to try to invest in other Montana things other than these infrastructure loans to local governments.

The second section, 176309, deals with investment preferences and here is where we create the direction to the board to make loans to enhance economic

EXHIBIT 1
DATE 3-21-95
HB 602

development and create jobs that will result in at least employment of 50 people in Montana. That is where our 50 person criteria comes in.

The next section, 176311, is where we provide the criteria for the loan, the dollar amounts, where we have the cap of $20 million, the minimum of $10,000 per job, or the minimum amount of $500,000, so that is where the dollar amounts on the loan. Then there are some criteria that in making the loan the board should consider the number of jobs to be created from the project, the impact of the jobs on the community, long term effect on personal and corporate income taxes and the ability of the community to provide the infrastructure through other means and other matters that the board feels are important. These are guidelines for the board to consider as to whether these loans should be made or not.

The next section, 176312, deals with state participation in the loan and there we just had to put in an internal reference. It is really a non-substantive change. We had to change an internal reference to allow these types of loans to be made.

The next section is section 5 of the bill. It is a new section. This is where we provide for the infrastructure tax credit and this is where we deal with the local government's repayment and the business's ability to offset against its taxes. The infrastructure use payments it makes to local governments that has provided the infrastructure.

When we make the loan, the loans go to local governments, the local government then will get the loan and it will have to use it for specified purposes,

for example a water system, a sewer system, roads. Normally those would be made through some sort of a special improvement district in the local community. The benefited users of those service would then pay fees to pay off the SID. In this case the amount is going to be paid by the state to the local government through the loan, then the local government will put in the water or sewer system. As the business locates, it starts using the water and sewer system, it will pay the fees to the local government. The local government will pay those fees to the state to repay the loan. The business will benefit by getting to deduct, as a credit from its income taxes, that it would pay the amount of those fees it is paying to the local government, so essentially the business is repaying the state but we are not charging its income taxes to offset the amount of that loan until that loan is paid off.

The benefit to the state under this is that at least 50 people who are employed there will be paying property taxes to the community and income taxes to the state, so that is where the benefit to the state accrues and you have the long term benefits of expansion of the job base, new infrastructure in place to allow other businesses to locate and that is how that section works and that is the bill.

Codification -

That is where we are going to put into the existing body of law this new section.

HOW IS IT DIFFERENT FROM MICRON 1 AND WHY IS IT NEEDED?

EXHIBIT 1
DATE 3-21-95
HB 602

Micron, as passed, and we coordinate this bill with that Chapter too - it is already law provided for jobs of businesses - the structure is the same - except that the number of people the business had to employ had to be a minimum of 200 people under the Micron proposal and the size of the loans were $20 million based on that same calculation. There are a number of smaller businesses that could be benefited from that type of program, but the other bill, Senator Lynch's SB 100, was primarily aimed at the Micron project although it was never mentioned by name in that bill, so this will allow, if you will, many Microns' and smaller but just as desirable companies to come into the state. We will provide the same sorts of incentives to local government to provide the needed services to allow those businesses to come in. It is a wash in terms of costs, and the long term and potential benefits are enhanced for everyone. So it allows communities to competitively pursue the location of businesses if you will on a smaller basis. I mean a 50 person company is in Montana a very nice sized company. You can go from anywhere from 50 up to 2000 in this. It provides the flexibility that Senate Bill 100 did not.

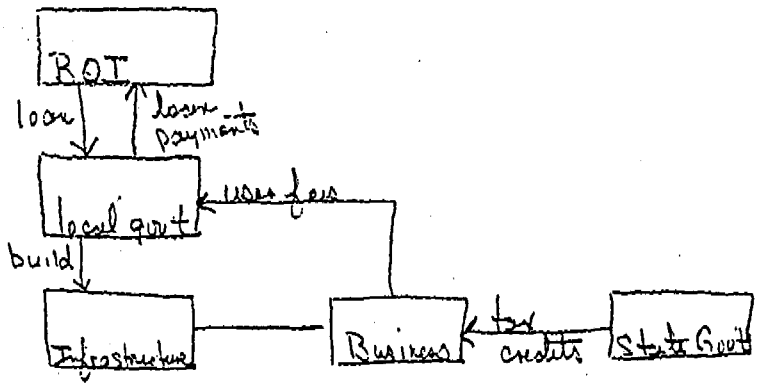
WHY USE COAL TAX TRUST ?

We do similar types of investments now. This is not significantly different from some other things we have done other than it is specifically jobs oriented. The Treasure State Endowment program for example, is designed to allow local governments to have access to state funds that are essentially coal severance tax flow through funds to use for infrastructure. This is where a specific project is coming in and will have immediate job creation impact to give them the money on a non prioritized need. Say the towns water system is bad, so it is a public health concern this is more of a job focus infrastructure bill as

opposed to a public health infrastructure which is already there. This is an economic development proposal is what it is designed as and the flexibility in the numbers will allow many more communities to compete. Already again Butte is looking at a frozen food manufacturing coming in. They may not create 200 jobs but they may create a 100 jobs right away. That is something that under the other bill wouldn't be allowed and there is already some things that could make a play on this bill.

ARE THERE ANY TOWNS THAT WOULD BENEFIT FROM THIS BILL?

The proposed plant in Shelby that may or may not come in, spring readily to mind. It is very possible that Shelby may need to expand its water and sewer systems and some streets and roads if something like that steel manufacture came in there. THEY'RE ALL KINDS OF LOCATIONS AND IDEAS. There may be a major trucking company that would want to relocate in Montana, if we could have a hub for them somewhere - that the Port of Butte facility is one that I am just thinking of that I know of right in this area that would readily use something like this. I think there are just all kinds of possible things that are going to happen.



New and existing
Section 2 (2)

EXHIBIT 1
DATE 3-21-95
HB 602

Amendments to House Bill No. 602
First Reading Copy

Requested by Representative Kitzenberg
For the Committee on

Prepared by Greg Petesch
March 18, 1995

1. Page 2, line 22.
Strike: "$1 million"
Insert: "$500,000"

EXHIBIT 2
DATE 3-21-95
HB 602

Montana Economic Developers Association

321 East Main, Suite 413 Bozeman, MT 59715 406-587-3113

"Representing all of Montana's economic development community!"

March 21, 1995

Members of the House Business & Labor Committee
Montana House of Representatives
State Capitol Building
Helena MT 59620

Dear Chairman Simon and Members of the Committee:

The Montana Economic Developers Association is an organization that includes over 60 individuals in the state of Montana who have economic development as their primary function.

These individuals represent every major community in the state and many smaller communities which are seeking to create economic growth and jobs for their areas.

The Montana Economic Developers Association strongly supports the passage of HB 602.

This bill will provide another economic development tool for the State of Montana. The MICRON project caused the passage of SB 100 because we all discovered that Montana needed to be able to help finance public infrastructure to support the development of larger industries. Of course, MICRON represented 3,500 jobs, and therefore, the bill was written to place a 2,000 job threshold on participation in the program.

It became clear to many of us that if the program was useful to help create 2,000 jobs, it could be much more useful (and perhaps more realistic) to use the program to help create businesses with 100 and 200 jobs -- a large economic development project by Montana terms.

The amerdments in this bill make it a good tool for economic development for the state, and we urge its passage.

Thank you.

Sincerely,

Dixie Swenson

Dixie Swenson
MEDA Legislative Committee

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 27, 1995, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)

Members Excused: N/A

Members Absent: Sen. Bill Wilson (D)

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 307, HB 602, SJR 21
Executive Action:	HB 307 BE CONCURRED IN
	HB 602 BE CONCURRED IN AS AMENDED
	SJR 21 DO PASS

HEARING ON HB 602

Opening Statement by Sponsor:

REP. SAM KITZENBERG, HD 96, Glasgow, presented **HB 602**, which had been renamed as the Montana Economic Incentive Act. He expressed this bill was very similar to **SB 100**, known as the Micron bill. He stated some people had called this bill "Son of Micron". He stated basically, **SB 100** was made better and was now **HB 602**. He maintained this bill was a new tool that authorized the Board of Investments to make loans to local governments to create infrastructure for businesses that would create from 50 to 2,000 permanent full-time jobs in Montana.

REP. KITZENBERG had given **HB 602**, which would have created 2,000 jobs with Micron, to **REP. RAY PECK** to study and **REP. PECK** wanted to reduce it down so any community in Montana could participate, thus the "50" was initiated. He related when they brought it to the House Committee, they were concerned about the jobs created and desired permanent full-time jobs, so another change was made there. He conveyed when **HB 602** went through the House, they further tightened it up. He explained they wanted "may" changed to "must" and they wanted it to have a cap on it, so the maximum amount would be $20 million. He said when it was run by several more people, they believed it needed a few more amendments.

REP. KITZENBERG presented the committee with Suggested Amendments to **HB 602**, Working from 3rd Reading as Amended, **EXHIBIT #1**. He also wanted this committee to add four amendments that came from the House, hb060205.agp, **EXHIBIT #1-A.** To better explain amendment 2, 7-15-4288(4), **REP. KITZENBERG** presented a letter from Montana Economic Developers Association, **EXHIBIT #2**, see the back of the letter. He also presented the committee with an explanation of how the tax credit worked with a diagram on the other side, **EXHIBIT #3**. **REP. KITZENBERG** in addition, presented the Fiscal Note for HB0602, 3rd reading, **EXHIBIT #4**. He presented all four letters he had on testimony for **HB 602**.

REP. KITZENBERG said one of his goals in coming to the legislature was to create jobs. He was happy he had a part in **SB 100** and was sorry it was defeated. He maintained what they were attempting to do with **HB 602** was to make it more applicable to the entire State of Montana. He wanted to give those interested in all of the communities in Montana another tool for economic development and infrastructure. He did not want this bill to be a partisan issue; to create jobs in Montana was the main thrust. **SEN. BECK** agreed to carry it in the Senate if it would pass this committee. He declared **HB 602** was an expanded version of **SB 100**, more flexible, with more safeguards on the coal funds as all money would be loans, not grants. He said all the money would go through the Board of Investments. He related the state was always in the first position, with first priority liens on the monies.

Proponents' Testimony:

Linda Reed, Economic Development Advisor, Governor's Office, asserted she was a proponent of **HB 602**. As **REP. KITZENBERG** had explained to the committee during the deliberations on **SB 100**, the various comments from communities and the Department of Commerce as to how valuable this concept would be in efforts to expand existing Montana businesses. She contended this bill also gave the flexibility of employment numbers down to the creation of 50 jobs. She maintained **HB 602** was a valuable tool for the local communities in helping existing and new businesses to expand. She related the Board of Investments would be underwriting those loans. **Ms. Reed** encouraged the committee's favorable consideration on **HB 602**.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. CASEY EMERSON inquired from **REP. KITZENBERG** if a bigger or better infrastructure would be required and **REP. KITZENBERG** said there might be some "infrastructure requirements" involved. He passed an article around to the committee from the Sunday's Billings Gazette that stated there was a case in Butte, which involved some infrastructure. He related there was a proposed carbide plant in Shelby, which involved some type of water facility to be added.

SEN. EMERSON also asked **REP. KITZENBERG** about companies needing investment money, operating capital, and infrastructure was usually a long way down the line. **SEN. EMERSON** wanted to know if **HB 602** would be used to help the cities in the future, or be abused in other ways, and **REP. KITZENBERG** stated he was not worried because the Board of Investments was involved.

Closing by Sponsor:

REP. KITZENBERG stated **HB 602** was a positive tool before this legislature that would be used in all of Montana's communities. He thought this would attract more industry and more jobs in Montana. He urged passage of **HB 602** with the four proposed amendments, hb060205.agp (**EXHIBIT #1-A**).

HEARING ON HB 307

Opening Statement by Sponsor:

REP. DAN HARRINGTON, HD 38, Bozeman, presented **HB 307**, which was a bill to solve a long-term problem for new and used motor home vehicle dealers, brokers, and consumers. He stated it provided for an express "title only" procedure allowing dealers a quicker method of checking titles validity whether for the dealers purchase from the consumer, or in the process of a consumer who wished to trade vehicles. He maintained many states around Montana from Washington to Wisconsin would not accept Montana's current multiple assignments on the motor vehicle registration. He said this limited dealers ability to keep their inventory moving to better markets and limited their ability to provide the type of vehicles the consuming public in their areas desired.

REP. HARRINGTON stated **HB 307** provided a solution to the problem. He maintained the new and used car district found this bill so important it was willing to pay a new $5 fee to cover the cost of 3 new FTE's in the Justice Department, Motor Vehicle Division. He announced **HB 307** generated $260,522 more than the expected cost of the dealers' desk in Deer Lodge, where it went into the General Fund. He thought that was a real plus.

EXECUTIVE ACTION ON SJR 21

Motion: **SEN. SPRAGUE MOVED SJR 21 DO PASS.**

Discussion: **SEN. SPRAGUE** asked what happened in the event that only 4 or 5 of those studies were actually studied even though they all had been approved by the full House and Senate. He asked, since there was a funding mechanism, did people then solicit private contributions. **Mr. Campbell** stated he didn't think that was possible under the rules of the legislative council. **Mr. Campbell** stated one of the things he had found that perhaps would be used more, as a holdover Senator could make a bill draft request and accomplish much of the same thing by having one of the staffers working on that during the interim as a bill draft request. He also stated the House could not do that, but the Senate holdovers could.

SEN. EMERSON commented to **SEN. SPRAGUE** if the SJR he had sponsored didn't get funded, he could personally request funding from interested parties and put some of the legislators on a committee and study it; that was complete freedom and people could solicit funding privately. **SEN. SPRAGUE** thought there may be some conflict in pursuing his resolution. **Mr. Campbell** stated he had never seen that done officially. He stated he had seen the Governor do that, but that was Executive Branch. **SEN. EMERSON** asked if that could be done unofficially and **Mr. Campbell** stated "yes".

Vote: The motion **DO PASS SJR 21, CARRIED UNANIMOUSLY** on voice vote.

EXECUTIVE ACTION ON HB 602

Motion/Vote: **SEN. KLAMPE MOVED TO ADOPT THE AMENDMENTS hb060205.agp.** The motion **CARRIED UNANIMOUSLY** by voice vote.

Motion: **SEN. CRISMORE MOVED HB 602 AS AMENDED BE CONCURRED IN.**

Discussion: **SEN. FORRESTER** asked **Mr. Campbell** to clarify amendment 2. **Mr. Campbell** stated Page 3, the committee was striking the remainder of line 18 after "infrastructure" through "roads" on line 19 and inserting "as provided for in 7-15-4288(4)".

SEN. FORRESTER asked the committee, when **REP. KITZENBERG** presented the bill he had stated everything had been looked at and stated this was the son of **SB 100**, they included that infrastructure in **SB 100** and now they were striking it. He asked if anyone had heard what the rational was for striking the infrastructure portion and **SEN. KEN MILLER** stated they didn't

strike "infrastructure", but inserted "as provided for in 7-15-4288(4)", which gave a better definition of what infrastructure was.

SEN. SPRAGUE thought **HB 602** was better than **SB 100** because this was a loan vs. a grant and the loan process would discriminate in the sense that those people wouldn't be asking for loans unless they could justify receiving the loans.

Vote: The motion **HB 602 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY** by voice vote.

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-27-95

NAME	PRESENT	ABSENT	EXCUSED
STEVE BENEDICT, VICE CHAIRMAN	✓		
WILLIAM CRISMORE	✓		
CASEY EMERSON	✓		
GARY FORRESTER	✓		
TERRY KLAMPE	✓		
KEN MILLER	✓		
MIKE SPRAGUE	✓		
BILL WILSON		✓	
JOHN HERTEL, CHAIRMAN	✓		

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

March 27, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 602 (third reading copy -- blue), respectfully report that HB 602 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Page 3, line 16.
Insert: "(3) State participation in loans to nonprofit corporations may qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to a for-profit business creating the jobs."

2. Page 3, lines 18 and 19.
Following: "infrastructure,"
Strike: remainder of line 18 through "roads" on line 19
Insert: "as provided for in 7-15-4288(4)"

3. Page 3, line 20
Following: "creation"
Insert: "or expansion"

4. Page 3, line 24.
Following: "."
Insert: "Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs."

-END-

Amd. Coord.
Sec. of Senate

Sen. Tom Beck
Senator Carrying Bill

3/27/95

My proxy -

I vote: Yes on - HB 602
Yes on HB 307
Yes on SJR 21

S Bruchit

AND Yes on Amendments

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1-A
DATE 3-27-95
BILL NO. HB 602

Amendments to House Bill No. 602
Third Reading Copy

Requested by Representative Kitzenberg
For the Committee on Business and Industry

Prepared by Greg Petesch
March 27, 1995

1. Page 3, line 16.
Insert: "(3) State participation in loans to nonprofit corporations may qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to a for-profit business creating the jobs."

2. Page 3, lines 18 and 19.
Following: "infrastructure,"
Strike: remainder of line 18 through "roads" on line 19
Insert: "as provided for in 7-15-4288(4)"

3. Page 3, line 20
Following: "creation"
Insert: "or expansion"

4. Page 3, line 24.
Following: "."
Insert: "Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs."

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3-27-95
BILL NO. HB 602

Suggested Amendments to House Bill 602
Working from HB 602 3rd Reading as Amended

(Presented by Rep. Fitzgerald)

Amendment 1.

On page 3, line 15, following line 15, insert new subsection

"(3) state participation in loans to non-profit corporations may qualify for the job credit interest rate reductions under 17-6-318, provided that the interest rate reduction passes through to a for-profit business creating the jobs."

Amendment 2.

On page 3, line 18 and 19 delete

"such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads"

Insert

"as defined in 7-15-4288 (4)"

Amendment 3.

On page 3, line 20, following "creation", insert

"or expansion"

Amendment 4.

On page 3, line 24, following "infrastructure." insert

"loans made pursuant to 17-6-309(2) shall qualify for the job credit interest rate reductions under 17-6-318, provided that the interest rate reduction passes through to the business creating the jobs."

Explanation of Amendments

Amendment 1.

This amendment allows job creation interest rate reductions available for loans to for-profit corporations which create the jobs to be available to non-profit corporations that borrow money that directly relates the creation of jobs by a for-profit corporation. In his case, the Board of Investments may allow the interest reduction to the non-profit provided that the non-profit passes on fully the value of the interest rate reduction to the for-profit which has created the jobs.

This amendment meets the "spirit" of the existing law, but recognizes that sometimes for-profit/non-profit relationships can be used to create jobs in the state.

Amendment 2.

This amendment provides a specific definition of infrastructure that has been used for many years under the Montana statutes. That definition is found in section 7-15-4288(4) and lists in detail the kinds of infrastructure that are fundable by local governments through tax increment districts. The amendment is submitted to provide a consistency of infrastructural support in various programs.

Amendment 3.

This amendment is to provide a consistency within HB602. The Bill has been amended to provide that the infrastructure loans in HB602 can go to business expansions that create over 50 jobs as well as to new businesses. Expansion was left out of this particular section and the word is added here to provide consistency in the Bill.

Amendment 4.

This amendment provides that the local government receiving the infrastructure loans under this Bill will receive the job creation interest rate reductions providing that they pass on the full value of that interest rate reduction to the company creating the jobs and paying for the state loan repayment.

Montana Economic Developers Association

321 East Main, Suite 413 Bozeman. MT 59715 406-587-3113

"Representing all of Montana's economic development community!"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3-27-95
BILL NO. HB 602
(Presented by Rep. Kitzenberg)

March 21

March 21, 1995

Members of the Senate Business and Industry Committee
Montana Senate
State Capitol Building
Helena MT 59620

Dear Chairman Hertel and Members of the Committee:

The Montana Economic Developers Association is an organization that includes over 60 individuals in the state of Montana who have economic development as their primary function.

These individuals represent every major community in the state and most smaller communities which are seeking to create economic growth and jobs for their areas.

The Montana Economic Developers Association strongly supports the passage of HB 602.

This bill will provide another economic development tool for the State of Montana. The MICRON project caused the passage of SB 100 because we all discovered that Montana needed to be able to help finance public infrastructure to support the development of larger industries. Of course, MICRON represented 3,500 jobs, and therefore, the bill was written to place a 2,000 job threshold on participation in the program.

It became clear to many of us that if the program was useful to help create 2,000 jobs, it could be much more useful (and perhaps more realistic) to use the program to help create businesses with 100 and 200 jobs -- a large economic development project by Montana terms.

The amendments in this bill make it a good tool for economic development for the state, and we urge its passage.

Thank you.

Sincerely,

Dixie Swenson

Dixie Swenson
MEDA Legislative Committee

(3) Thereafter, the adjusted base value is used in determining the mill rates of affected taxing bodies unless the tax increment resulting from the adjustment is determined to be insufficient for this purpose. In this case, the governing body must reduce the base value to the amount originally determined or to a higher amount necessary to provide tax increments sufficient to pay all principal and interest due on the bonds.

History: En. 11-3921 by Sec. 1, Ch. 287, L. 1974; amd. Sec. 1, Ch. 452, L. 1975; amd. Sec. 2, Ch. 532, L. 1977; amd. Sec. 31, Ch. 566, L. 1977; R.C.M. 1947, 11-3921(6); amd. Sec. 8, Ch. 667, L. 1979.

7-15-4288. Costs that may be paid by tax increment financing. The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project or industrial infrastructure development project:

(1) land acquisition;

(2) demolition and removal of structures;

(3) relocation of occupants;

(4) the acquisition, construction, and improvement of infrastructure or industrial infrastructure, which includes streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges, publicly owned buildings, and any public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;

(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

(6) acquisition of infrastructure-deficient areas or portions of areas;

(7) administrative costs associated with the management of the industrial district;

(8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself at its fair value;

(9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district;

(10) the connection of the industrial district to existing infrastructure outside the industrial district;

(11) the provision of direct assistance, through industrial infrastructure development projects, to secondary, value-adding industries to assist in meeting their infrastructure and land needs within the industrial district; and

(12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution.

History: En. 11-3921 by Sec. 1, Ch. 287, L. 1974; amd. Sec. 1, Ch. 452, L. 1975; amd. Sec. 2, Ch. 532, L. 1977; amd. Sec. 31, Ch. 566, L. 1977; R.C.M. 1947, 11-3921(part); amd. Sec. 1, Ch. 147, L. 1981; amd. Sec. 9, Ch. 712, L. 1989; amd. Sec. 1, Ch. 737, L. 1991; amd.

EXHIBIT NO. 3
DATE 3-27-95
BILL NO. #B 602

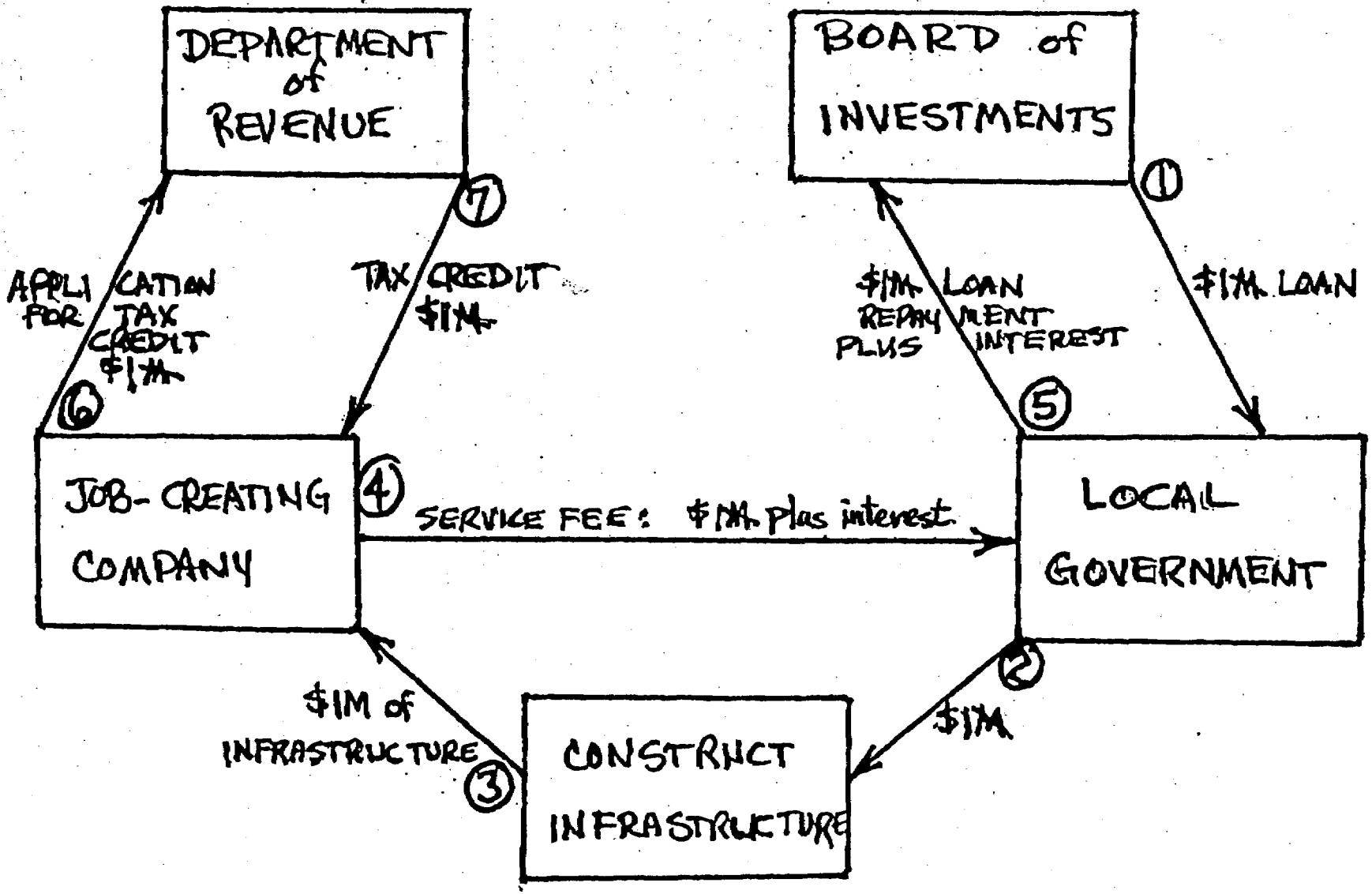
Infrastructure Loan/Tax Credit Procedure -- House Bill 602

(Presented by Rep. Fitzpatrick)

Example using $1 million infrastructure loan to a city

- The Board of Investment loans $1 million to the City
- The City constructs $1 million of infrastructure
- The City makes the infrastructure available to the job-creating company
- The company pays a fee to the City for use of the infrastructure
    - Within that fee payment would be an amount equal to the principal portion of the loan pay off for the $1 million infrastructure loan, as well as an amount to cover the interest portion of the loan pay off, and finally, a small fee to compensate for the actual use of the infrastructure.
- The City pays both the principal and interest amounts on the $1 million loan to the Board of Investments
- The company then applies to the State of Montana for a Corporate Income Tax Credit equal to the amount of the fee attributable to the principal portion of the loan pay back. The cost of the interest portion is borne by the company.

HB 602 - PROCESS SCHEMATIC



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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0602, 3rd reading

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3-27-95
BILL NO. HB 602

Presented by Rep. Kitzenberg

DESCRIPTION OF PROPOSED LEGISLATION:
An act authorizing loans to local government for businesses estimated to employ at least 50 people; providing that loans must be used to provide infrastructure for a business; providing for repayment of the loans through infrastructure fees; providing a tax credit for infrastructure fees paid; and providing an immediate effective date.

ASSUMPTIONS:
1. The Board of Investments (Board), through qualifying financial institutions, currently makes "economic development" loans from the Permanent Coal Tax Trust to qualifying businesses located in Montana.
2. Current law permits the Board to use up to 25.0 percent of the Permanent Coal Tax Trust (Trust) for these loans, and no individual loan may exceed 1.0 percent of the Permanent Coal Tax Trust. (The Trust has a book value of approximately $540.0 million.)
3. HB602 would permit the Board to make loans from the Trust ranging from $500,000 to $20 million to local governments to fund infrastructure improvements necessary to accommodate businesses that would employ a minimum of 50 new employees. The infrastructure would serve as loan collateral.
4. The businesses for whom the infrastructure is developed would pay a fee to amortize the loan and receive a tax credit in the amount of the fees paid to amortize the loan.
5. The Board, when making the loans authorized in HB602, would be required to exercise the "prudent expert principle" as it does when making all "economic development" loans from the Trust.
6. Loans made under HB602 would not be considered part of the 25.0 percent of the Trust authorized for the "economic development" loans the Board currently makes.
7. Loans made from the Trust under HB602 would differ from the loans currently made by the Board in the following ways: 1) individual loans could exceed 1.0 percent of the Trust; 2) loans would be made to local governments, rather than private businesses; and 3) loans would be made directly to borrowers, rather than in participation with financial institutions that would service the loans. (The Board is currently prohibited from making direct loans to borrowers.)

FISCAL IMPACT:
Expenditures:

Department of Revenue
The addition of a new tax credit would require adding a line to the corporation tax form. This increases administrative expenses an estimated $1,500 in FY96.

(continued page 2)

Dave Lewis 3-24-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

NOT FI...
DIST...

SAM KITZENBERG, PRIMARY SPONSOR DATE
Fiscal Note for HB0602, 3rd reading

FISCAL IMPACT: (continued)
Expenditures:

Board of Investments
Whether enactment of HB602 would increase Board operating expenditures, depends upon the number of loan applications reviewed, the number of loans made, and the accounting workloa required to service the loans. It is impossible to estimate in advance, the additional workloa required of the Board to implement this legislation.

Revenues:
This bill allows the Board of Investments to make loans to local governments for infrastructure development in situations where the business that uses the infrastructure is estimated to creat at least 50 new jobs. The local government will then charge the business user fees for use of th infrastructure. The business will then be allowed to claim any user fee paid as a tax credit agains corporation licenses taxes.

To the extent that this provision is used in the future, there would be a reduction in corporatic license taxes for user fees paid by the businesses paying these fees. It is not possible to accurate project the extent or use of these fees by future businesses.

Interest income on the Trust would not be impacted, based on the assumption that the Boa would lend under the provisions of HB602 at an interest rate comparable to other loans it make from the Trust.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
To the extent that local governments receive loans from the Board and construct infrastructu projects, local government expenditures would increase.

DATE March 27, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 307 Rep Harrington
HB 602 Rep. Kitzenberg
SJR 21 Senator Klampe

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
DAVE BROWN	Mt. Independent Automobile Dealer's Association	HB307	X	
MARK Steffes	MT IND AUTO DLRS & AUTO ARC	HB307	X	
SCOTT MITCHELL	MGM AUTO BROKERS MIADA	HB307	X	
Dean Roberts	Dept of Justice - MVD	HB307		
Steve Turkiewicz	Mt. Auto Dealers Assn	HB307	X	
Linda Reed	Fiscal Officer	HB602	X	
LANCE MELTON	DEPT. OF COMMERCE	SJR21	X	
Stuart Doggett	MT Manufactured Housing & RV Dealers	HB307	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON HOUSE BILL 602

Call to Order: By **CHAIRMAN TOM BECK**, on April 5, 1995, at 4:40 p.m.

ROLL CALL

Members Present:
Sen. Thomas A. "Tom" Beck (R)
Sen. Steve Doherty (D)
Sen. C.A. "Casey" Emerson (R)
Rep. Sam Kitzenberg (R)
Rep. Bruce T. Simon (R)
Rep. Joe Quilici (D)

Members Excused: none

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Secretary

Discussion:

CHAIRMAN BECK noted that the Senate amendments to HB 602 were rejected by the House and the only amendment was in regards to the primary sector changing to local and the number of employees was dropped from 50 to 25.

REP. BRUCE SIMON said that first of all the second amendment moving the number of employees from 50 to 25 the House felt that the original Micron bill called for an agreement of 2,000 jobs. HB 602 came in and brought that number down to 50 jobs. They felt that bringing it down all that way, the involvement by the Board of Investments (BOI) with these kinds of things when talking about infrastructure, the facility would need to meet the needs of at least 50 jobs. There was a need of at least $10,000 per job and by reducing the number to 25, it changes the amount per job to $20,000. It is preferred that the Senate back off and go to 50 jobs. People from the Board of Investments, namely **REP. EWER** have had discussions with other members of the board and they feel that the structure of these loans will be a problem. They would like to try the bill at 50 jobs and if it is a booming success and it can fit the needs at 25 jobs they can always change it in future sessions. The other amendment striking primary sector and changing it to local sector they do not agree with because the primary sector portion of the economy generates

wealth and adds value to the community. Rather than a retail store where you are bringing in additional competition which is trading dollars within the community, you are not really adding wealth to the community. That was the reason primary sector was stressed rather than the secondary sector which does not generate new wealth into the community. They are trying to create new wealth since the state was to be involved they thought that was important. These are the reasons from his standpoint that the House did not accept the Senate amendments.

REP. JOE QUILICI said that they had discussed it and he thought that the employment of at least 50 people was adequate to go to the BOI. As far as the primary sector, he said that he had a different opinion in that he thought it might be a good amendment. The way he looked at it, the BOI could make a loan to the primary sector of the local economy. He questioned whether the primary sector would only mean timber in Kalispell or agriculture in Great Falls. When he saw primary stricken, he thought it made the bill a little cleaner.

CHAIRMAN BECK asked **Susan Fox** if she knew of any definition for primary sector in the codes?

Susan Fox said she did not but would look it up.

REP. SIMON added that during the hearing in the House committee, they made an effort to put on the record what they meant by primary sector of the economy. When looking at **SEN. STEVE DOHERTY'S** amendment, the original bill did not say local, it said the primary sector of the economy. They made a very conscious effort in the committee as to what that meant, and in their eyes it meant the creation of jobs that generate new wealth in a community not service type jobs.

CHAIRMAN BECK said that he had not seen that and was in agreement with **REP. SIMON**. He said that the next question was why the House put in a single loan could not be less than $500,000?

REP. SIMON said that the $10,000 per job times 50 jobs, you come out with $500,000 and you can not go below that.

CHAIRMAN BECK said that the bill was jammed together in that a loan cannot exceed $10,000 per job but yet a single loan may not be less than $500,000. That meant if you had 50 employees, you would be limited to the $500,000.

REP. SIMON was concerned that the BOI would find this legislation difficult at best and the mechanism of implementing would be difficult. The BOI has been charged with the responsibility of making the loans, and they may be reluctant to get involved in small level loans because they do not have the ability to take on the paper work and they do not have the staff.

SEN. CASEY EMERSON said that he agreed that there should be at least 50 employees for the infrastructure. Only 25 to 30 extra jobs, the standard rules for infrastructure are capable to handle this many employees. Regarding the primary sector, he was not sure because he did not know what the definitions were or what the committee's had planned.

SEN. DOHERTY said that if it was a good deal to provide loans for infrastructure, why shouldn't they give every incentive to a good business that will only employ 25 people. He said that he could see where the BOI would have to do the same amount of work for 25 employees as it would for 50 employees and he thought that the 50 would make sense. He questioned that in the local economy, what is the primary sector and what's manufacturing? Was it mining or could it be a silicon chip plant. If someone wanted to come to Great Falls and it was not a basic industry and had nothing to do with agriculture or mining, but would add 50 jobs to the Great Falls economy he would like to say to them that as part of the package we can offer, they will loan them up to $500,000 to build, furnish water, sewer, or whatever they need.

REP. SIMON said that their primary sector definition would fit as the plant would bring added value to the community. The House had the concern that a McDonalds would come in and they did not want to help that kind of job where it is added competition and not new wealth.

SEN. DOHERTY used the example of CUC International who do not create wealth, but sell credit cards by telephone. When CUC came into the area they did not build a new building but used a remodeled building. This would not qualify as a primary job but is a good job in Great Falls even though they have employees who receive full medical benefits. He questioned whether or not it would be considered primary sector if they decided to build their own building?

REP. SIMON said that by their definition CUC would qualify as a primary sector. It would not fit into primary sector when trading within the community occurs.

SEN. DOHERTY said that when he considered primary sector, he felt it to mean people cutting timber to make furniture and not people answering phones.

SEN. EMERSON asked if there was an economist in the room who could explain the terms.

Linda Reed, from the Governor's Office, said that the service sector can fit the primary sector meaning in some instances. The BOI however, has defined basic sector jobs in its rules.

SEN. DOHERTY asked if basic sector should be used rather than primary?

SEN. EMERSON asked if the basic sector would exclude service jobs and retail stores?

Ms. Reed confirmed **SEN. EMERSON'S** question.

SEN. EMERSON said that they all have the same agreement but they need to find a word that would fit.

Ms. Fox said that you could strike local and insert "basic an defined in rule by BOI".

REP. QUILICI asked if the BOI would make the final decisions if a business would be basic or not.

SEN. DOHERTY said that the amendment sounded fine as long as the BOI definition would work.

CHAIRMAN BECK said that the amendment they have would strike local and reinsert "basic sector of the economy as defined in rule by the BOI".

Motion/Vote: **SEN. DOHERTY MOVED TO ADOPT THE AMENDMENT CHANGING TO BASIC SECTOR. THE MOTION CARRIED UNANIMOUSLY.**

Motion/Vote: **CHAIRMAN BECK MOVED TO ADOPT THE AMENDMENT TO GO TO 50 EMPLOYEES. THE MOTION CARRIED UNANIMOUSLY.**

Motion/Vote: **REP. SIMPSON MOVED TO ADOPT THE CONFERENCE COMMITTEE REPORT. THE MOTION CARRIED UNANIMOUSLY.**

SENATE STANDING COMMITTEE REPORT

March 27, 1995

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration HB 602 (third reading copy -- blue), respectfully report that HB 602 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Page 3, line 16.
Insert: "(3) State participation in loans to nonprofit corporations may qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to a for-profit business creating the jobs."

2. Page 3, lines 18 and 19.
Following: "infrastructure,"
Strike: remainder of line 18 through "roads" on line 19
Insert: "as provided for in 7-15-4288(4)"

3. Page 3, line 20
Following: "creation"
Insert: "or expansion"

4. Page 3, line 24.
Following: "."
Insert: "Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs."

-END-

Amd. Coord.
Sec. of Senate

Sen. Tom Beck
Senator Carrying Bill

HB 602

SENATE

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 29, 1995 4:54 pm

Mr. Chairman: I move to amend HB 602 (third reading copy -- blue).

ADOPT

REJECT

Signed: Steve Doherty
Senator Doherty

That such amendments read:

1. Page 2, line 12.
Strike: "PRIMARY SECTOR OF THE"
Insert: "local"

2. Page 2, lines 13 and 14.
Strike: "50"
Insert: "25"

-END-

HB 602

SENATE

Amd. Coord.

CONFERENCE COMMITTEE

on HB 602
Report No. 1, April 6, 1995

Mr. Speaker and Mr. President:

We, your Conference Committee on **HB 602** met and considered Senate floor amendments to third reading copy (blue) and recommend that **HB 602** (reference copy -- salmon) be amended as follows:

1. Page 2, line 12.
Strike: "LOCAL"
Insert: "basic sector of the"
Following: "ECONOMY"
Insert: ", as defined by the board by rule,"

2. Page 2, line 13.
Strike: "25"
Insert: "50"

3. Page 2, line 14.
Strike: "25"
Insert: "50"

And this Conference Committee report be adopted.

For the House:

Simon

Chair

Kitzenberg

Quilici

For the Senate:

Beck

Chair

Emerson

Doherty

ADOPT

REJECT

791013CC.Hdh

HOUSE BILL NO. 602

INTRODUCED BY KITZENBERG, BECK, LYNCH, HARP, PECK, GALVIN, L. NELSON, RYAN, HEAVY RUNNER, MCGEE, SHEA, ELLIS, FUCHS, HOLLAND, QUILICI, MENAHAN, HARRINGTON, GRINDE, MERCER, SIMPKINS, BROWN, SCHWINDEN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING LOANS TO LOCAL GOVERNMENT FOR BUSINESSES ESTIMATED TO EMPLOY AT LEAST 50 PEOPLE; PROVIDING THAT LOANS ~~MAY~~ MUST BE USED TO PROVIDE INFRASTRUCTURE FOR A BUSINESS; PROVIDING FOR REPAYMENT OF THE LOANS THROUGH INFRASTRUCTURE FEES; PROVIDING A TAX CREDIT FOR INFRASTRUCTURE FEES PAID; AMENDING SECTIONS 17-6-305, 17-6-309, 17-6-311, AND 17-6-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-305, MCA, is amended to read:

"**17-6-305. Investment of up to twenty-five percent of coal tax trust fund in Montana economy -- report by board.** (1) Subject to the provisions of 17-6-201(1), the board shall endeavor to invest up to 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana economy, with special emphasis on investments in new or expanding locally owned enterprises. Investments made pursuant to this section do not include investments made pursuant to 17-6-309(2).

(2) In determining the probable income to be derived from investment of this revenue, the long-term benefit to the Montana economy must be considered.

(3) The legislature may provide additional procedures to implement this section.

(4) The board shall include a report on the investments made under this section as a part of the information required by 17-7-111."

Section 2. Section 17-6-309, MCA, is amended to read:

"**17-6-309. Investment preferences.** (1) ~~In~~ Subject to the provisions of subsection (2), in deciding which of several investments of equal or comparable security and return are to be made when sufficient funds are not available to fund all possible investments, the board shall give preference to the business

investments that:

~~(1)~~(a) assist employee-owned enterprises in providing new jobs or in preserving existing jobs for Montana residents or in otherwise contributing to the long-term benefit of the Montana economy;

~~(2)~~(b) are for locally owned enterprises that are either expanding or establishing new operations;

~~(3)~~(c) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;

~~(4)~~(d) maintain and improve a clean and healthful environment, with emphasis on energy efficiency;

~~(5)~~(e) encourage or benefit the processing, refining, marketing, and innovative use and promotion of Montana's agricultural products; or

~~(6)~~(f) benefit small- and medium-sized businesses as defined in rules adopted by the board.

(2) The board may make a loan to enhance economic development and create jobs IN THE ~~PRIMARY SECTOR OF THE~~ LOCAL ECONOMY if the loan will result in the creation of a business estimated to employ at least ~~50~~ 25 people in Montana ON A PERMANENT, FULL-TIME BASIS OR RESULT IN THE EXPANSION OF A BUSINESS ESTIMATED TO EMPLOY AT LEAST AN ADDITIONAL ~~50~~ 25 PEOPLE IN MONTANA ON A PERMANENT, FULL-TIME BASIS."

Section 3. Section 17-6-311, MCA, is amended to read:

"**17-6-311. Limitation on size of investments.** (1) Except as provided in subsections (2) ~~and (3)~~ through (4), ~~no~~ an investment may not be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of which exceeds 1% of the permanent coal tax trust fund.

(2) Subsection (1) does not limit the board's authority to make loans to the capital reserve account as provided in 17-6-308(2).

(3) Subsection (1) does not apply to the purchase of debentures issued by a capital company; however, the total amount of such debentures purchased by the board may not exceed 1% of the Montana permanent coal tax trust fund at the time of purchase.

(4) ~~A loan~~ THE TOTAL AMOUNT OF LOANS made pursuant to 17-6-309(2) may not exceed $20 million ~~or~~, AND A SINGLE LOAN MAY NOT be less than ~~$1 million~~ $500,000. Loans must be made in $250,000 increments. A loan may not exceed $10,000 per job that is estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the board shall consider:

(a) the estimated number of jobs to be created by the project and the impact of the jobs on the state and the community where the project will be located;

(b) the long-term effect of corporate and personal income taxes estimated to be paid by the business and its employees;

(c) the current and projected ability of the community to provide necessary infrastructure for economic and community development purposes; and

(d) other matters that the board considers necessary."

Section 4. Section 17-6-312, MCA, is amended to read:

"**17-6-312. State participation in loans.** (1) ~~State~~ Subject to 17-6-311(4), state participation in any loan to a business enterprise, except for a loan guaranteed by a federal agency, must be limited to 80% of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the loan participation amount.

(2) The purchase of debentures issued by a capital company is not a loan participation and is not subject to subsection (1).

(3) STATE PARTICIPATION IN LOANS TO NONPROFIT CORPORATIONS MAY QUALIFY FOR THE JOB CREDIT INTEREST RATE REDUCTIONS UNDER 17-6-318 IF THE INTEREST RATE REDUCTION PASSES THROUGH TO A FOR-PROFIT BUSINESS CREATING THE JOBS."

NEW SECTION. **Section 5. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to 17-6-309(2) ~~may~~ MUST be used to build infrastructure, ~~such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads~~ AS PROVIDED FOR IN 7-15-4288(4), that allows the location or creation OR EXPANSION of a business in Montana. The loan ~~may~~ MUST be made to a local government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure. LOANS MADE PURSUANT TO 17-6-309(2) QUALIFY FOR THE JOB CREDIT INTEREST RATE REDUCTIONS UNDER 17-6-318 IF THE INTEREST RATE REDUCTION PASSES THROUGH TO THE BUSINESS CREATING THE JOBS.

(2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied

that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

(3) A business that is created OR EXPANDED as the result of a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 OR 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed the amount of the loan. THE CREDIT MAY BE CARRIED FORWARD FOR 7 TAX YEARS OR CARRIED BACK FOR ~~7~~ 3 TAX YEARS.

NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 17, chapter 6, part 3, and the provisions of Title 17, chapter 6, part 3, apply to [section 5].

NEW SECTION. **Section 7. Coordination instructions.** (1) If [this act] is passed and approved, then the amendment to 17-6-308 contained in section 1, Chapter 2, Laws of 1995, and the amendment to 17-6-309 contained in section 2, Chapter 2, Laws of 1995, are void.

(2) The code commissioner shall codify [section 5 of this act] as an integral part of section 5, Chapter 2, Laws of 1995.

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

-END-